


UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

SUN PHARMACEUTICAL INDUSTRIES LTD. and RANBAXY SIGNATURE, LLC,	)	
	)	
Plaintiffs,	)	<b>CONTAINS CONFIDENTIAL</b>
	)	<b>INFORMATION SUBJECT TO</b>
v.	)	<b>PROTECTIVE ORDER</b>
	)	
SAPTALIS PHARMACEUTICALS, LLC,	)	C.A. No. 1:18-cv-648 (WCB)
	)	
Defendant.	)	
	)	
	)	Public Version Filed: July 23, 2020
	)	

**DECLARATION OF CHARLES B. KLEIN IN SUPPORT OF  
PLAINTIFFS' ANSWERING BRIEF OPPOSING  
SAPTALIS' MOTION FOR ATTORNEYS' FEES**

I, Charles B. Klein, of full age, hereby declare as follows:

1. I am an attorney at the law firm of Winston & Strawn LLP, and I represent Sun Pharmaceutical Industries Ltd. and Ranbaxy Signature, LLC (collectively, "Sun") in the above-captioned matter. As such, I have personal knowledge of the facts set forth herein.

2. Attached as **Exhibit A** is a true and correct copy of Sun's submission of corrected patent information on November 15, 2018, for U.S. Patent No. 6,890,957 ("the '957 patent"), which Sun produced in this matter as SUN\_RIOMET\_000234 to SUN\_RIOMET\_000240. Sun submitted Exhibit A to FDA after counsel for Saptalis Pharmaceuticals, LLC ("Saptalis") suggested that the expiration date listed in the Orange Book for the '957 patent may be incorrect. After investigating the issue and confirming that Sun mistakenly did not account for a terminal disclaimer limiting the patent term, Sun submitted Exhibit A to FDA on November 15, 2018 to correct the patent expiration date.

3. Attached as **Exhibit B** is a true and correct copy of email correspondence and an attachment from my colleague, Bryce Cooper, to Don Mizerk, dated March 1, 2019. Upon asking for “any information indicating that Dr. Khan was ever disclosed or authorized to access Saptalis confidential information under the protective order,” my colleague attached Dr. Khan’s signed agreement to the protective order, dated December 9, 2018.

4. Shortly after sending Exhibit B, counsel for Saptalis asked for the notice of Sun’s disclosure of Dr. Khan. *See* D.I. 162-2 (Ex. I) at 3. In response, Mr. Cooper explained that, upon reviewing our records, “we received the executed [protective order] from Dr. Khan the day before Steven Roth informed us that Saptalis would be changing counsel,” and did not send the signed agreement to Saptalis’ counsel as “an oversight” while Saptalis’ counsel was in flux. *Id.* at 2.

5. Attached as **Exhibit C** is a true and correct copy of Sun’s Motion to Terminate Appeal by Voluntary Dismissal Under Fed. R. App. P. 42(b), dated June 1, 2020. Exhibit C explains that, “[w]hile Appellants still believe in the merits of their case, Appellants have decided to forego this appeal in light of the resources necessary to continue this appeal and subsequently litigate at the district court.”

6. Attached as **Exhibit D** is a true and correct copy of the Federal Circuit’s Order granting Sun’s Motion to Terminate Appeal by Voluntary Dismissal Under Fed. R. App. P. 42(b) and ordering that each side shall bear its own costs.

7. Attached as **Exhibit E** is a true and correct copy of Petitioners’ Petition for a Writ of Certiorari filed in *Dr. Reddy’s Labs., Ltd. v. Eli Lilly & Co.*, No. 19-1061 (Feb. 24, 2020).

8. Attached as **Exhibit F** is a true and correct copy of Petitioners’ Petition for a Writ of Certiorari filed in *Hospira, Inc. v. Eli Lilly & Co.*, No. 19-1058 (Feb. 24, 2020).

9. Attached as **Exhibit G** is a true and correct copy of Petitioners' Petition for a Writ of Certiorari filed in *CJ CheilJedang Corp. v. ITC*, No. 19-1062 (Feb. 24, 2020).

10. Attached as **Exhibit H** is a true and correct copy of correspondence from David Gerasimow to my colleague, Claire Fundakowski, regarding Saptalis' production of samples, dated June 20, 2019. Saptalis produced the samples described in Exhibit H in response to Sun's Request for Production No. 24, which Sun served seven months earlier on November 14, 2018. *See* D.I. 45.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 16, 2020

/s/ Charles B. Klein

Charles B. Klein